



MEMORANDUM

VIA Email

To: Local Government Commission (SLGFD@nctreasurer.com)

From: Village of Bald Head Island

Re: Questions to be Answered

Bald Head Island Transportation Authority ("Authority")
Application for Approval of Bald Head Island Transportation Authority Transportation
System Revenue Bond Findings ("Application") for \$56,144,303.30 Financing

Date: May 21, 2021

The Village of Bald Head Island ("Village") respectfully submits these questions in response to the Motion adopted at the May 4, 2021 LGC meeting and correspondence to the Village from LGC Staff dated May 13, 2021. It is in the public interest for adequate responses to these questions to be received, in order for proper consideration to be given to the Application. We hope these questions and materials are helpful to the LGC. If any additional information would be helpful, please let us know. Thank you for your consideration.

I. Transparency

"The Commission may inquire into and give consideration to any other matters which it may believe to have a bearing on whether the issue should be approved." G.S. § 159-52(a).

- Has the Authority conducted sufficient public meetings and disclosure in order for the public to become aware of and understand the nature and significance of the proposed transaction and financing?
- Have the three (3) year audited financial statements referenced at the May 4, 2021 LGC meeting been disclosed?
- Has the enterprise value requested by the Seller referenced at the May 4, 2021 LGC meeting been disclosed?

- Has a quality of earnings assessment been conducted as is typical for transactions of this size and nature and has it been disclosed?
- Is there sufficient community support, including by the regular users of the Transportation System, for the Project/financing? LGC Guidelines, Section 7) (“Community Support for the project is important, especially for non-voted debt. Lack of community support may be evidenced by comments at meetings of the governing body or public hearings, correspondence, newspaper articles, etc.”).

II. Governance

- Whether the Seller historically has transferred its utility assets and employment of its utility employees to the Village?
- Has the Village efficiently and in the public interest operated since 2005 the water and sewer utility assets acquired from Bald Head Island Utilities, Inc. and Bald Head Island, LLC?
- Whether this transaction and financing, if approved over the objection of a majority of the Transportation System users, would set up an antagonistic relationship between the users and the Authority?
- Whether the Village could operate the assets efficiently, with substantial savings of public funds? For example, by issuing general obligation bonds for non-ferry assets (e.g., barge, warehouse and parking), higher bond rating and lower interest rates based upon Village’s credit history and \$1,156,220,487.00 ad valorem tax base and avoiding wasteful duplication of administrative offices, personnel, communications and systems.
- Whether the Village Council, consisting of regular riders and users of the Transportation System, would be more informed, responsive and fiscally responsible than an Authority Board, a majority of which consists of persons who do not regularly use the Transportation System?
- Are the regular users of the Transportation System sufficiently represented on the Authority governing board, when the proposed transaction was approved by a 7-4 vote, over the objection of all four (4) Bald Head Island resident appointees who are regular users of the System?
- Are the regular users of the Transportation System sufficiently represented on the Authority governing board, when no Bald Head Island appointee, including the ex officio Mayor and Mayor Pro Tem members, were appointed to the negotiating committee with the Seller within the past approximately 1½ years?
- Do the governing boards of other transportation authorities which are truly regional in nature more closely reflect the communities of the users than the governing board of the Bald Head Island Transportation Authority, which solely provides transportation to and from Bald Head Island?
- The Transportation System has been operated by the developer of Bald Head Island for several decades. Has any public concern regarding governance arisen that would require a regional Transportation Authority to address?
- If the financing application is denied for the questions and concerns noted, is it likely that the Transportation System assets would be acquired by a public entity, either the Village or a transportation authority established by it under Article 25,

Chapter 160A, pursuant to the Right of First Refusal granted the Village by Bald Head Island Transportation, Inc. and Bald Head Island Limited recorded at Book 1329, Page 932, Brunswick County Registry?

III. Value to the Public

Session Law 2017-120, Section 6.(a) provides that the Transportation System assets to be acquired can be acquired “by purchase, gift, lease, or otherwise, by that Authority at or below their appraised value...”.

- “[G]ift, lease, or otherwise” are permissible methods of acquisition, rather than purchase;
 - Assets must be acquired at or below their appraised value; and
 - Public funds can be expended only for appraised value, not business enterprise value, goodwill, on-going concern, or similar concepts.
 - Session Law 2017-120 does NOT contain exceptions to the LGC’s financing statutes or Guidelines.
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- Do the proposed transaction and financing adequately account for the condition of the assets and improvements necessary to operate the System through the maturity date of the financing? G.S. § 159-51(a)(11) (“If the proposed issue is for a public service enterprise, the probable net revenues of the project to be financed and the extent to which the revenues of the utility or enterprise, after addition of the revenues of the project to be financed, will be sufficient to service the proposed debt.”); G.S. § 159-52(b)(2) (“That the amount proposed is adequate and not excessive for the proposed purpose of the issue.”). Issues include, without limitation, additional real estate and land use planning needed for improvements for parking, passenger ingress/egress, baggage handling, dredge spoil disposition, and number of ferry runs and ferry capacities. It is noted that Bald Head Island is at present approximately 60% “built-out” of buildable properties and that a substantial strain in transportation capacity is already being placed on the current system. The number of property owners, visitors, guests, workers and service providers will substantially increase. G.S. § 159-52(a)(12) (“Whether the amount of the proposed debt will be adequate to accomplish the purpose for which it is to be incurred.”)
 - Has the Authority conducted a salary and compensation study, including health and retirement benefits for the necessary staff? LGC Guidelines 8) (“The repayment plan presented must be complete and consistent regarding the maturity of debt, the life of assets financed, terms of related agreements, etc. In addition, the repayment plan must be consistent with the financial projections provided by the unit.”).
 - What increases in user fees and charges beyond those proposed in 2021 would be necessary for the financing and would they be excessive? Section 159-52(b)(4) (“That the increase in taxes [user fees], if any, necessary to service the proposed debt will not be excessive.”).
 - Would the increases in user fees and charges fall disproportionately on the daily workers?

- Would the increases in user fees and charges be a disincentive to the employers of daily workers to do work on Bald Head Island?
- Has the Authority sufficiently explored acquisition by gift, lease, or otherwise? Session Law 2017-120 6.(a).
- Has the Authority explored lease of the ferry terminals instead of purchase?
- Has the Authority explored with the State of North Carolina use or lease of the nearby marine terminal parcels for the Fort Fisher-Southport ferry or the former North Carolina International Terminal site of 42 acres?
- Has the Authority obtained independent, qualified appraisal reports for the real estate to be acquired? LGC Guidelines on Debt Issuance (Revised), September 4, 2019, LGC Consideration of Unit’s Debt Management and the Proposed Project (“LGC Guidelines”), 9) (“Appraisals, feasibility studies and comfort letters (if required) must be prepared by parties that are both independent to the transaction and possessing adequate expertise”).
- Why is a developer’s incentive of fifteen (15%) percent of total cost included in the real estate appraisals? (See pg. 62 of the Worsley Report of Deep Point; pg. 65 of Worsley Report of Bald Head Marina). An incentive is normally included only on new projects. Deep Point has been in place for over twelve (12) years and the Bald Head Island Marina for over twenty-five (25) years.
- The debt burden of “not to exceed \$59,000,000.00” is substantially in excess of the appraised asset value, which is \$47,750,000.00 or less. Would that constitute an impermissibly heavy debt burden exceeding that of similar units? LGC Guidelines, Section 3) (“The Unit should have a reasonable debt burden. A heavy debt burden may be evidenced by... Debt to Appraised Property Value exceeding that of similar units.”).
- Is the request for operating expenses, not capital expenditures? LGC Guidelines, Section 4 (“The request to borrow must be for capital expenditures, not operating expenses.”).
- Are the financial projections and amount of the proposed financing sufficient for the operation of a first-class Transportation System, consistent with the Bald Head Island community? G.S. § 159-52(a)(12) (“Whether the amount of the proposed debt will be adequate to accomplish the purpose for which it is to be incurred.”).
- Are the financial projections consistent with past performance, including the audited three (3) year financial statements? LGC Guidelines 9) (“Financial projections should be presented that demonstrate feasibility and are clearly reasonable in comparison to prior financial performance.”).
- Is the three (3) year review of past financials sufficient, given the major impacts of Hurricane Florence and COVID-19 on ferry usage in recent years?
- Is the asset depreciation schedule too low, given the deteriorated condition of the equipment?
- With current unmet deferred maintenance and capital expenditures, are the ratepayers effectively having to pay for these items twice; initially through the bond sale with \$47,750,000.00 being paid to the Seller; and again when rates are raised to pay for maintenance and capital repairs that should already have been addressed?
- Has the Authority sufficiently considered partnering with other State, County or municipal units of government for a guarantee, letter of credit, or other financing

(such as inclusion in State financing) that would result in a lower debt burden to the public? LGC Guidelines 12) (“Enhancement including letters of credit, bond insurance, a parent guarantee, etc., should be considered.”).

- Are the low bond rating of “BBB-” and 4.25% interest rate reasonable and in the public interest for a project of this magnitude? G.S. § 159-52(b)(5) (“That the proposed bonds can be marketed at reasonable rates of interest.”); LGC Guidelines 12) (“Ability to secure an investment grade rating should be documented.”).
- Could the Village obtain a higher bond rating and lower interest rate by issuing general obligation bonds to purchase the parking, warehouse, and barge assets that are not regulated by the Utilities Commission as part of the ferry system? G.S. § 159-48(b)(12), (14) and (23) (authorizing municipality to issue general obligation bonds for parking, warehouse, and public transportation).
- Could the Village obtain a higher bond rating and lower interest rate by issuing revenue bonds for the ferry assets, based upon its credit history?
- In light of all of the foregoing questions and concerns, is the Project to be financed “necessary or expedient”? G.S. § 159-52(a)(1) and (b)(1).

Additional documents bearing on the foregoing questions are attached. *See Exhibit A*, “Transportation System: Deferred Capital Expense and Other Expenses” and *Exhibit B*, “Village of Bald Head Island Owned Transportation System.”

EXHIBIT A

Transportation System: Deferred Capital Expense and Other Expenses

At Deep Point:

1. Pave the two new parking lots that have been stoned and bizarrely striped. The site had been rough graded for several years, recently fine graded with a bulldozer, stoned and rolled to a seemingly excellent compaction, ready for asphalt. Without the asphalt, especially in a parking lot, the front wheels of a vehicle will churn up the stone allowing for a substantial rain event to degrade the base requiring re-stoning and re-compaction prior to paving.
2. Clear concrete debris and rough grade 2+ acre lot to the right of entry.
3. Engineer and permit additional future parking within existing lots to be transferred at closing.
4. Since there is no more land within or adjacent to Deep Point for disposal of dredge spoils in the manner that has been previously employed, identify and secure nearby land that can be purchased for future spoils disposal/staging. A possible prospect is unbuildable land adjacent to the nuclear plant.
5. Analyze baggage handling and passenger management with emphasis on the operational status of the machinery and the viability of the underlying operational system, i.e. arrivals using the upper level and departures the lower level. If, as has been proffered, that the system only needs six more employees to be functional, then hire those employees and build the expense into the projections.

At Bald Head Island:

1. With regard to the severely compromised dredge spoils basin on a small island north of the marina, verify the status of the permits and whether the construction document supplied is viable. Although it makes no sense to perfect the permits or commence construction prior to a need, a plan should nevertheless be in place.
2. Repair punctures in the metal bulkheads at the marina entry channel.
3. Since the previously accessible toilet facilities have been shut off from the public, develop a plan for toilet facilities in the short and long terms.
4. Address the frequent flooding at the passenger loading dock.
5. In the present proposal there is a mere 2+ acres relegated to the island terminal complex. Vehicular ingress and egress are constrained by the existing real estate sales building. This lack of space cannot safely or efficiently accommodate the multi-functional needs of the operation and in fact would force the compromise of a critical protective dune structure. Engage a professional, independent land planner to conduct a study to include all parcels within the area with participation of all stakeholders. This study should include and have particular emphasis on an improved layout of the dockside functions.

In General:

1. Engage an independent professional firm to conduct a thorough compensation study: Executive Director to tram driver. In the challenging local labor market, the Bald Head transportation system may have to be aggressive in its pay structure. This study should also address retirement plans and any employee issues arising from the transition of a private entity to a public one.
2. As is commonly done, develop a comprehensive and detailed 10-year Reserve Schedule for maintenance and replacement of individual assets, including their life cycle and projected expense.
3. All of these issues have a financial impact, some far more than others. Similarly, some solutions are more readily apparent than others. The deficiencies and dysfunction at the terminals are both harder to solve and potentially far more expensive than other tasks. However, estimates of both cost and timing can be made and incorporated into the projections that drive the purchase price of the enterprise.

EXHIBIT B

Village of Bald Head Island Owned Transportation System

Why should the Village of Bald Head Island own and operate the transportation system?

The transportation system is in natural alignment with the Village's mission to serve the community. The Village can easily and quickly integrate the transportation operations, as it has done in the past with the water and wastewater utility and other Island operations and infrastructure. The Village's acquisition will save money on acquisition financing costs. Also, the Village already possesses the administrative, process and public communications infrastructure and can quickly integrate stakeholder involvement, as it does on a day-to-day basis.

The transportation system, which includes the ferry, parking, and barge operations, is the lifeline of the Island. As such, it must be predictable and sustainable if Bald Head Island is to remain a quality coastal community. Declining service levels, particularly during peak weekends, holidays, and the summer season must be reversed.

The Village government is uniquely qualified to assess the current community needs with respect to the system. The Village government is one of the largest employers of ferry users as well as the primary source for communication, regulation and support to the private and non-profit organizations that account for the bulk of the remaining daily riders. In addition to these persons that rely on a dependable transit to reach their livelihood, full and part time residents are bound to the system for the ability to inhabit the island. The safety and viability of the island is directly tied to the system and as such puts the Village government in a position of accountability for its continued success.

The Village government is the central source for monitoring the growth and changes to the community. This information acquired through its various departments, as well as extensive community liaison groups, is critical to understanding the current and long-term demands of the transportation system. The network of Village resources creates an effective vehicle to plan strategies addressing current short falls of the system and the long-range planning for a system that will need to evolve with the changing demands of the island. Long range planning for a successful system is intertwined with Village infrastructure, coordination of Village Public Services, Public Safety, Planning departments will be essential for streamlining land use and other necessary uninterrupted adjustments and growth of the system.

The Village has a track record of owning and operating utilities successfully on the Island.

The Village has professionally trained and certified North Carolina government Village Clerk and Village Manager and an organization that can easily allow for efficiency gains and economies of scale, in particular with regard to administrative functions such as finance, bookkeeping, human resources, IT infrastructure, communications, etc.

The Village has a track record of successfully repaying the debt on bonds issued for the purpose of providing utility services, beach stabilization, public park land, contractor services, and more to

the property owners of the Island. As such, the Village is expected to have more financing options to consider than the Bald Head Island Transportation Authority.

The Village fully intends to enter into an interlocal agreement with the Town of Southport, Brunswick County, and other entities necessary to resolve issues of ferry operations, traffic, and fees in lieu of property taxes.

How should the Village of Bald Head Island own and operate the transportation system?

Acquisition

With the intent to expeditiously develop a fair value to close the deal with the seller as soon as practical, the Village Council will:

1. Employ an independent and commercially qualified business valuation consultant, real estate appraiser, and other experts as needed.
2. Investigate all options including alternative mainland ports such as the Southport Marina, the international port property, North Carolina Ferry system at Southport, etc.
3. Use to extent possible existing due diligence, including the Mecator Feasibility study, conduct additional due diligence, including market, cost, and income methodology appraisals of real property, and a quality of earnings assessment.
4. Determine fair market value of the system assets (ferry, parking and barge).
5. Negotiate sales price with seller.

Financing

1. The Village's bond counsel is Ed Lucas of Robinson, Bradshaw & Hinson, L.L.P.
2. Analyze and determine the most advantageous financing terms and options, including consideration of general obligation bonds for non-ferry assets (barge, warehouse, and parking) and revenue bonds for ferry assets.
3. Meet with LGC staff to review financing options and clarify process necessary to obtain LGC approval.
4. Identify and select financial institution(s) to develop bond proposal.
5. Approve bond proposal to present to the LGC.

Governance

1. Initially and through a twelve (12) to eighteen (18) month transition, a Transportation Manager will be identified as well as Managers of parking, ferry, barge, warehousing, and maintenance services. The Transportation Manager will report to the Village Manager.
2. Finance/accounting, human resources, communications, IT, and other administrative functions will transition into existing Village Departments.
3. *See Village and Transportation Department Organizational Charts, **Appendix A.***
4. The Village will consider and implement, as necessary from time to time, a committee, task force, or other advisory structure to:
 - Assist with transition and operations;
 - Obtain and act on input from stakeholders and other municipal and government entities; and
 - Provide input to the Transportation Manager.

Transparency

1. The Village will conduct a minimum of two (2) public meetings:
 - a. to share with the public preliminary plans to acquire the system and seek input; and
 - b. to share the final plans for acquiring the system and seek input.

(Plus additional public meetings as advisable or necessary to obtain approval of the financing).
2. The Transportation System will be a standing agenda item during regular Village Council meetings to address public concerns regarding rates and service quality.

The Village will share information on an as needed basis through the Village Voice, the Village's primary communication to the public. Anyone who so chooses can sign up through the Village's website.

APPENDIX A

Organizational Charts



